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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,225	06/02/2006	Reynaldo Stamatis Filho	STAMATIS FILHO ET AL.-1 P	1350
25889	7590	02/02/2009	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			KUMAR, RAKESH	
			ART UNIT	PAPER NUMBER
			3651	
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			02/02/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,225	<b>Applicant(s)</b> STAMATIS FILHO ET AL.	
	<b>Examiner</b> RAKESH KUMAR	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/02/2006</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “1” has been used to designate both “dispensing mechanism” and “dispensing device;”

reference character “2” has been used to designate both “semi-circular shape” and “semi-circular box;”

reference character “4” has been used to designate both “tubular drawer,” “the compartment” and “tubular compartment;”

reference character “6” has been used to designate both “vertical section,” “tubular exit,” “tubular section,” and “length of part.”

It is suggested the applicant review the specifications to correct all other discrepancies that were found in the disclosure but not stated here in the action because there are too numerous issues as disclosed above.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. It appears that the foreign claims have been directly translated. Appropriate action is required.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1. Claim 1 recites the limitations "ensemble in an adequate place," on line 5. The limitations as disclosed are considered to be indefinite for failing

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to particularly point out and distinctly claim the subject matter. It is unclear to what is deemed as an adequate place. Appropriate action is required.

Referring to claim 1. Claim 1 recites the limitations “whilst the curved section,” on line 5. It is unclear as to what is meant by the recited limitations. Appropriate action is required.

Referring to claim 1. Claim 1 recites the limitations “superior section,” on line 6. It is unclear as to which section is the “superior section.” Appropriate action is required.

Referring to claim 1. Claim 1 recites the limitations “tubular drawer,” on line 7. No drawer is disclosed. Appropriate action is required.

Claim 1 recites the limitation “the rear side” in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation “the curved section” in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation “the front” in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation “the compartment” in line 8; “the bottom” in line 9; “the digital handle” in line 19; “the closure” in line 24; “the tubular exit” in line 26; “the opposite side” in line 32; “the whole extension” in line 33. There is insufficient antecedent basis for this limitation in the claim.

\*\*\*\* As a reminder the specific objections state above are not the only soul objections discovered in the application but rather a template of issues that are still present, too numerous to state in this action. The Applicant is advised to review all limitations recited in the claims and the supporting content disclosed in the specifications to either correct or amend the issues that were found to be pervasive.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Conti (US 2,004,520).

Referring to claims 1-11. Conti discloses a dispenser for disposable cups (Figure 1), comprising a semi-circular shape (Figure 1), whose straight section is facing the rear side (see back side of Figure 1) includes a fastening plate (B), while the curved section is facing the front (Figure 1), its top section includes a vertically extending tubular transparent container (C), wherein the cups contained within the tubular container are facing downwards (see Figure 5), wherein the bottom of the tubular compartment is axially aligned with another tubular and vertical section (14) which comprises an exit for the cups to be dispensed (see opening in Figure 3 and 5) by a dispensing device (28;

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Figure 4), comprising one box (including member 12, 25 and 31; Figure 6) defined by a horizontally plane wall (21), above the horizontally plane wall is another sliding diaphragm plate (31) by its turn closes the circular box, and its front edge exhibits an extension which configures the handle (28), radically projected to the outside through the slot (between 12 and 25) formed by cutting in the wall, comprising sufficient extension so that the plate can be moved from the outside, the plate alternates to provide an obstruction in the opening as the plate is rotated.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

/RAKESH KUMAR/  
Examiner, Art Unit 3651